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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
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08/902,849    07/30/97    MALTBY    E    300-023

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MM42/0930

EXAMINER
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REICHARD, D

ART UNIT	PAPER NUMBER
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2831

8

DATE MAILED: 09/30/99

**Please find below and/or attached an Office communication concerning this application or proceeding.**

**Commissioner of Patents and Trademarks**

# Office Action Summary

Application No.

08/902,849

Applicant(s)

Maltby et al.

Examiner

Dean Reichard

Group Art Unit

2831



☒ Responsive to communication(s) filed on Sep 24, 1999

☒ This action is **FINAL**.

☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

A shortened statutory period for response to this action is set to expire 3 month(s), or thirty days, whichever is longer, from the mailing date of this communication. Failure to respond within the period for response will cause the application to become abandoned. (35 U.S.C. § 133). Extensions of time may be obtained under the provisions of 37 CFR 1.136(a).

## Disposition of Claims

☒ Claim(s) 1-44 is/are pending in the application.

Of the above, claim(s) \_\_\_\_\_ is/are withdrawn from consideration.

☐ Claim(s) \_\_\_\_\_ is/are allowed.

☒ Claim(s) 1, 3-6, 8-22, 25, 26, 28-34, 36-38, and 40-44 is/are rejected.

☒ Claim(s) 2, 7, 23, 24, 27, 35, and 39 is/are objected to.

☐ Claims \_\_\_\_\_ are subject to restriction or election requirement.

## Application Papers

☐ See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.

☐ The drawing(s) filed on \_\_\_\_\_ is/are objected to by the Examiner.

☐ The proposed drawing correction, filed on \_\_\_\_\_ is ☐ approved ☐ disapproved.

☐ The specification is objected to by the Examiner.

☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. § 119

☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).

☐ All ☐ Some\* ☐ None of the CERTIFIED copies of the priority documents have been

☐ received.

☐ received in Application No. (Series Code/Serial Number) \_\_\_\_\_.

☐ received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

\*Certified copies not received: \_\_\_\_\_

☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

## Attachment(s)

☐ Notice of References Cited, PTO-892

☐ Information Disclosure Statement(s), PTO-1449, Paper No(s). \_\_\_\_\_

☐ Interview Summary, PTO-413

☐ Notice of Draftsperson's Patent Drawing Review, PTO-948

☐ Notice of Informal Patent Application, PTO-152

--- SEE OFFICE ACTION ON THE FOLLOWING PAGES ---

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## DETAILED ACTION

### *Claim Rejections - 35 USC § 103*

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103© and potential 35 U.S.C. 102(f) or (g) prior art under 35 U.S.C. 103(a).

2. Claims 1, 3-6, 8-12, 14-22, 25, 26, 28-34, 37, 38, and 40-44 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hayman.

Re claim 1, Hayman discloses a cover plate for covering an electrical outlet, the electrical outlet including a receptacle having at least one socket and at least one securing aperture for

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receiving a securing device, each of the at least one socket including a face and a plurality of blade apertures for receiving plug blades, the cover plate comprising:

- a front surface for facing outwardly from the electrical outlet and externally relative to the cover plate and a back surface facing toward the electrical outlet;

- a plurality of blade apertures extending through the cover plate through the front and back surfaces and positioned in the cover plate so the blade apertures are in substantial alignment with the at least two blade apertures of the at least one socket when the cover plate is affixed to the electrical outlet for receiving the plug blades; and

- at least one securing aperture extending through the cover plate through the front and back surfaces and positioned in the cover plate so the at least one securing aperture is in substantial alignment with a corresponding one of the at least one securing aperture of the receptacle when the cover plate is affixed to the electrical outlet for receiving the securing device and fixedly positioning the cover plate with respect to the receptacle;

- the front surface of the cover plate containing a line extending substantially in a rectangle around the blade apertures and the at least one securing aperture, the front surface otherwise being continuous, and being free of any other apertures;

- the cover plate being a single component and being solid except for the blade apertures and the at least one securing aperture.

Hayman lacks the line being a single line, and the front surface otherwise having uniform topography, since Hayman discloses a plurality of lines and pronounced elevations as can be seen

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in Hayman's figures 1 and 4. It would have been obvious to one having ordinary skill in the art at the time the invention was made to omit all but a single one of the lines and the pronounced elevations disclosed by Hayman, since it has been held that omission of an element and its function (the function of the extra lines and the pronounced elevations in Hayman is merely to provide a specific appearance) in a combination where the remaining elements perform the same functions as before involves only routine skill in the art. *In re Karlson*, 136 USPQ 184.

Re claim 3, note that the line disclosed by Hayman is a raised line raised relative to the remainder of the front surface. See for example figure 4 in Hayman.

Re claim 4, note that the front surface of Hayman's cover plate is substantially planar.

Re claim 5, note that a substantial portion of the front surface of Hayman's cover plate is substantially planar.

Re claim 6, Hayman's figures 3 and 4 show that a portion of the back surface is shaped to directly contact and be substantially flush with the face of the at least one socket of the associated receptacle.

Re claim 8, note that the front surface of Hayman's cover plate covers the entire face of the at least one socket except for the blade apertures of the at least one socket when the cover plate is affixed to the electrical outlet.

Re claim 9, note that Hayman's front surface is sized to cover the entire face portion of its associated receptacle, which includes the face of the at least one socket, except for the blade

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apertures of the at least one socket and the at least one securing aperture of the receptacle when the cover plate is affixed to the electrical outlet.

Re claim 10, note that Hayman's front surface other than the line is substantially smooth.

Re claim 11, note that the electrical outlet over which Hayman's cover plate is to be installed inherently is disposed in a hole, and the front surface of Hayman's cover plate is sized to cover the entire hole except for the blade apertures of the at least one socket and the at least one securing aperture of the receptacle when the cover plate is affixed to the electrical outlet.

Re claim 12, Hayman discloses a cover plate for covering an electrical outlet, the electrical outlet including a receptacle having at least one socket, each of the at least one socket including a face and a plurality of blade apertures for receiving plug blades, the cover plate comprising:

- a front surface for facing outwardly from the electrical outlet and externally relative to the cover plate and a back surface for facing toward the electrical outlet;

- a plurality of blade apertures extending through the cover plate through the front and back surfaces and positioned in the cover plate so the blade apertures are in substantial alignment with the blade apertures of the at least one socket when the cover plate is affixed to the electrical outlet for receiving the plug blades;

- the front surface of the cover plate containing a line extending substantially in a rectangle around the blade apertures, the front surface other wise being continuous;

- the cover plate being a single component and being solid except for the blade apertures and a securing aperture.

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Hayman lacks the line being a single line, and the front surface otherwise having uniform topography and a freedom of any other apertures, since Hayman discloses a plurality of lines, pronounced elevations, and a securing aperture, as can be seen in Hayman's figures 1 and 4. It would have been obvious to one having ordinary skill in the art at the time the invention was made to omit all but a single one of the lines, the pronounced elevations, and the securing aperture disclosed by Hayman, since it has been held that omission of an element and its function (the function of the extra lines and the pronounced elevations in Hayman is merely to provide a specific appearance, and the securing function of the securing aperture could be accomplished in other ways such as by an interference or snap fit) in a combination where the remaining elements perform the same functions as before involves only routine skill in the art. *In re Karlson*, 136 USPQ 184.

Re claim 14, note that the line disclosed by Hayman is a raised line raised relative to the remainder of the front surface.

Re claim 15, note that a substantial portion of the front surface of Hayman's cover plate is substantially planar.

Re claims 16 and 17, note that the front surface of Hayman's cover plate is sized to cover the entire face of the at least one socket except for the blade apertures of the at least one socket, whether or not the cover plate is affixed to the electrical outlet.

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Re claim 18, note that Hayman's front surface is sized to cover the entire face portion of its associated receptacle, which includes the face of the at least one socket, except for the blade apertures of the at least one socket when the cover plate is affixed to the electrical outlet.

Re claim 19, note that the front surface of Hayman's front surface other than the line is substantially smooth.

Re claim 20, Hayman's figures 3 and 4 show that a portion of the back surface is shaped to directly contact and be substantially flush with the face of the at least one socket of the associated receptacle.

Re claim 21, note that the electrical outlet over which Hayman's cover plate is to be installed inherently is disposed in a hole, and the front surface of Hayman's cover plate is sized to cover the entire hole except for the blade apertures of the at least one socket when the cover plate is affixed to the electrical outlet.

Re claim 22, Hayman discloses a cover plate for covering an electrical outlet, the electrical outlet including a receptacle having at least one socket and at least one securing aperture for receiving a securing device, each of the at least one socket including a face and a plurality of blade apertures for receiving plug blades, the cover plate comprising:

- a front surface for facing outwardly from the electrical outlet and externally relative to the cover plate and a back surface facing toward the electrical outlet;

- a plurality of blade apertures extending through the cover plate through the front and back surfaces and positioned in the cover plate so the blade apertures are in substantial alignment with



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the at least two blade apertures of the at least one socket when the cover plate is affixed to the electrical outlet for receiving the plug blades; and

at least one securing aperture extending through the cover plate through the front and back surfaces and positioned in the cover plate so the at least one securing aperture is in substantial alignment with a corresponding one of the at least one securing aperture of the receptacle when the cover plate is affixed to the electrical outlet for receiving the securing device and fixedly positioning the cover plate with respect to the receptacle;

the front surface of the cover plate containing a first (central) region substantially rectangular in shape disposed about and including all the blade apertures and the at least one securing aperture and a second (outer) region which contains the portion of the front surface other than the first region, the front surface having a discontinuity between the first and second regions, the first region otherwise being continuous, and being free of any other apertures, and the second region otherwise being continuous, and being free of any apertures.

All of these features can be seen in Hayman's figure 1, except for the back surface of the cover plate which can be seen, for example, facing to the right in Hayman's figure 3 and facing downwardly in Hayman's figure 4.

Hayman lacks the first and second regions having uniform topography, since Hayman shows two large discontinuities, one at the top of the cover plate and one at the bottom of the cover plate, which enter into both the first and the second regions.

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It would have been obvious to one having ordinary skill in the art at the time the invention was made to omit the two large discontinuities disclosed by Hayman, since it has been held that omission of an element and its function (the function of the two large discontinuities in Hayman is merely to provide a specific appearance) in a combination where the remaining elements perform the same functions as before involves only routine skill in the art. *In re Karlson*, 136 USPQ 184.

Re claim 25, note that in the cover plate disclosed by Hayman, modified to omit the two large discontinuities at the top and bottom of the cover plate, each of the first (central) and second (outer) regions of the front surface is substantially planar.

Re claim 26, note that a substantial portion of Hayman's second (outer) region is substantially planar, once Hayman's cover plate is modified to omit the two large discontinuities.

Re claims 28 and 32, Hayman's figures 3 and 4 show that a portion of the back surface is shaped to directly contact and be substantially flush with the face of the at least one socket of the associated receptacle, whether or not the cover plate is affixed to the electrical outlet.

Re claim 29, note that Hayman's front surface covers the entire face of the at least one socket except for the blade apertures of the at least one socket when the cover plate is affixed to the electrical outlet.

Re claim 30, note that Hayman's front surface is sized to cover the entire face portion of its associated receptacle, which includes the face of the at least one socket, except for the blade apertures of the at least one socket and the at least one securing aperture of the receptacle when the cover plate is affixed to the electrical outlet.

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Re claim 31, note that each of Hayman's first (central) and second (outer) regions is substantially smooth (with the two large discontinuities omitted as discussed above).

Re claim 33, note that the electrical outlet over which Hayman's cover plate is to be installed inherently is disposed in a hole, and the front surface of Hayman's cover plate is sized to cover the entire hole except for the blade apertures of the at least one socket and the at least one securing aperture of the receptacle when the cover plate is affixed to the electrical outlet.

Re claim 34, Hayman discloses a cover plate for covering an electrical outlet, the electrical outlet including a receptacle having at least one socket, each of the at least one socket including a face and a plurality of blade apertures for receiving plug blades, the cover plate comprising;

a front surface for facing outwardly from the electrical outlet and externally relative to the cover plate and a back surface facing toward the electrical outlet;

a plurality of blade apertures extending through the cover plate through the front and back surfaces and positioned in the cover plate so the blade apertures are in substantial alignment with the at least two blade apertures of the at least one socket when the cover plate is affixed to the electrical outlet for receiving the plug blades;

the front surface of the cover plate containing a first (central) region substantially rectangular in shape disposed about and including all the blade apertures and a second (outer) region which contains the portion of the front surface other than the first region, the front surface having a discontinuity between the first and second regions, the first region otherwise being

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continuous, and being free of any other apertures, and the second region otherwise being continuous, and being free of any apertures.

All of these features can be seen in Hayman's figure 1, except for the back surface of the cover plate which can be seen, for example, facing to the right in Hayman's figure 3 and facing downwardly in Hayman's figure 4.

Hayman lacks the first and second regions having uniform topography, since Hayman shows two large discontinuities, one at the top of the cover plate and one at the bottom of the cover plate, which enter into both the first and the second regions.

It would have been obvious to one having ordinary skill in the art at the time the invention was made to omit the two large discontinuities disclosed by Hayman, since it has been held that omission of an element and its function (the function of the two large discontinuities in Hayman is merely to provide a specific appearance) in a combination where the remaining elements perform the same functions as before involves only routine skill in the art. *In re Karlson*, 136 USPQ 184.

Re claim 37, note that in the cover plate disclosed by Hayman, modified to omit the two large discontinuities at the top and bottom of the cover plate, each of the first (central) and second (outer) regions of the front surface is substantially planar.

Re claim 38, note that a substantial portion of Hayman's second (outer) region is substantially planar, once Hayman's cover plate is modified to omit the two large discontinuities.

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Re claim 40, Hayman's figures 3 and 4 show that a portion of the back surface is shaped to directly contact and be substantially flush with the face of the at least one socket of the associated receptacle.

Re claim 41, note that the front surface of Hayman's cover plate covers the entire face of the at least one socket except for the blade apertures of the at least one socket when the cover plate is affixed to the electrical outlet.

Re claim 42, note that Hayman's front surface is sized to cover the entire face portion of its associated receptacle, which includes the face of the at least one socket, except for the blade apertures of the at least one socket when the cover plate is affixed to the electrical outlet.

Re claim 43, note that each of Hayman's first (central) and second (outer) regions is substantially smooth once the cover plate is modified to omit the two large discontinuities.

Re claim 44, note that the electrical outlet over which Hayman's cover plate is to be installed inherently is disposed in a hole, and the front surface of Hayman's cover plate is sized to cover the entire hole except for the blade apertures of the at least one socket when the cover plate is affixed to the electrical outlet.

3. Claims 12, 13, 15-19, and 21 are rejected under 35 U.S.C. 103(a) as being unpatentable over Dierenbach et al.

Re claim 12, Dierenbach et al. disclose a cover plate 172,136 for covering an electrical outlet, the electrical outlet including a receptacle 100 having at least one socket 102, each of the

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at least one socket including a face and a plurality of blade apertures for receiving plug blades, the cover plate comprising:

- a front surface for facing outwardly from the electrical outlet and externally relative to the cover plate and a back surface for facing toward the electrical outlet;

- a plurality of blade apertures a-f extending through the cover plate 172,136 through the front and back surfaces and positioned in the cover plate 172,136 so the blade apertures are in substantial alignment with the blade apertures of the at least one socket 102 when the cover plate 172,136 is affixed to the electrical outlet for receiving the plug blades;

- the front surface of the cover plate containing a single line (the interface between elements 172 and 136) extending substantially in a rectangle around the blade apertures a-f, the front surface other wise being continuous, having uniform topography, and being free of any other apertures;

- the cover plate being two components (172 and 136) and being solid except for the blade apertures.

Dierenbach et al. lack the cover plate being a single component. It would have been obvious to one having ordinary skill in the art at the time the invention was made to make elements 172 and 136 of the Dierenbach et al.'s cover plate integral with one another, since it has been held that forming in one piece an article which has formerly been formed in two pieces and put together involves only routine skill in the art. *Howard v. Detroit Stove Works*, 150 U.S. 164 (1893).

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Re claim 13, note that the line between Dierenbach et al.'s elements 172 and 136 comprises an indented line indented relative to the remainder of the front surface.

Re claim 15, note that a substantial portion of the front surface of Dierenbach et al.'s cover plate 172,136 is substantially planar.

Re claims 16 and 17, note that the front surface of Dierenbach et al.'s cover plate 172,136 is sized to cover the entire face of the at least one socket 102 except for the blade apertures of the at least one socket 102, whether or not the cover plate is affixed to the electrical outlet.

Re claim 18, note that Dierenbach et al.'s front surface is sized to cover the entire face portion of its associated receptacle 100, which includes the face of the at least one socket 102, except for the blade apertures of the at least one socket 102 when the cover plate 172,136 is affixed to the electrical outlet.

Re claim 19, note that the front surface of Dierenbach et al.'s front surface other than the line between elements 172 and 136 is substantially smooth.

Re claim 21, note that the electrical outlet over which Dierenbach et al.'s cover plate is to be installed inherently is disposed in a hole, and the front surface of Dierenbach et al.'s cover plate is sized to cover the entire hole except for the blade apertures of the at least one socket 102 when the cover plate 172,136 is affixed to the electrical outlet.

4. Claim 36 is rejected under 35 U.S.C. 103(a) as being unpatentable over Hayman in view of Warner.

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Hayman discloses all of the claimed features except for the first region being recessed inwardly relative to the second region.

Warner teaches the use of a recessed region surrounding blade apertures of a cover plate in order to improve the safety of the cover plate and its associated receptacle. See for example column 4 lines 20-25 in Warner.

It would have been obvious to one having ordinary skill in the art at the time the invention was made to recess the first (central) region of Hayman's cover plate, at least in the area of its blade apertures relative to the second (outer) region in order to improve the safety of the cover plate and its associated receptacle in view of the teaching of Warner.

*Allowable Subject Matter*

5. Claims 2, 7, 23, 24, 27, 35, and 39 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

6. The following is a statement of reasons for the indication of allowable subject matter:

The primary reason for the indication of the allowability of claim 2 is the inclusion therein, in combination as currently claimed, of the limitation of the line comprising an indented line which extends around the blade apertures and the at least one securing aperture and is indented relative



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to the remainder of the front surface. This limitation was found in claim 2 and is neither disclosed nor taught by the prior art of record, alone or in combination.

The primary reason for the indication of the allowability of claim 23 is the inclusion therein, in combination as currently claimed, of the limitation of the first region being elevated outwardly relative to the second region. This limitation was found in claim 23 and is neither disclosed nor taught by the prior art of record, alone or in combination.

The primary reasons for the indication of the allowability of claim 24 are the inclusion therein, in combination as currently claimed, of the limitations of the first region including both the blade apertures and the at least one securing aperture, and the first region being recessed inwardly relative to the second region. These limitations were found in claim 24 and are neither disclosed nor taught by the prior art of record, alone or in combination.

The primary reason for the indication of the allowability of claim 35 is the inclusion therein, in combination as currently claimed, of the limitation of the first region being elevated outwardly relative to the second region. This limitation was found in claim 35 and is neither disclosed nor taught by the prior art of record, alone or in combination.

The primary reason for the indication of the allowability of claims 7, 27, and 39 are the inclusion therein, in combination as currently claimed, of the limitation of a thinned receiving area which mates to the at least one socket when the cover plate is affixed to the electrical outlet. This limitation was found in claims 7, 27, and 39, and is neither disclosed nor taught by the prior art of

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record. Applicants' arguments filed February 12, 1999 with respect to the combination of Hayman and Allen are persuasive.

***Response to Arguments***

7. Applicant's arguments with respect to claims 22, 25, 26, 28-34, 37, 38, and 40-44 have been considered but are moot in view of the new ground(s) of rejection.
8. Applicant's arguments filed February 12, 1999 have been fully considered but they are not persuasive with respect to claims 1, 3-6, 8-13, 14-21, and 36. Applicant's arguments filed February 12, 1999 are persuasive, however, with respect to claims 7, 27, and 39.

***Closing***

9. This is a continuing prosecution application of applicant's earlier Application No. 08/902,849. All claims are drawn to the same invention claimed in the earlier application and could have been finally rejected on the grounds and art of record in the next Office action if they had been entered in the earlier application. Accordingly, **THIS ACTION IS MADE FINAL** even though it is a first action in this case. See MPEP § 706.07(b). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO**

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MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no, however, event will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Dean A. Reichard whose telephone number is (703) 308-3682. The examiner can normally be reached on Mondays-Thursdays from 6:30am to 5:00pm, EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Kristine Kincaid, can be reached on (703) 308-0640. The fax phone number for this Group is (703) 305-3431.

Any inquiry of a general nature or relating to the status of this application should be directed to the Group receptionist whose telephone number is (703) 308-1782.

*DR 9-29-99*  
Reichard:dar  
September 29, 1999

*Dean A. Reichard 9-29-99*  
Dean A. Reichard  
Primary Examiner